

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

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**In re GenesisIntermedia, et al.,**

**Civil No. 03-3471 (RHK/AJB)  
ORDER**

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As the undersigned has mentioned at both of the most recent hearings involving this matter, the Court is considering a transfer of this action (together with the remaining pending motions) back to the United States District Court for the Central District of California for trial.<sup>1</sup>

Although the Court has the authority to transfer this action on its own motion under 28 U.S.C. § 1404(a), see generally I-T-E Circuit Breaker Company v. Becker, 343 F.2d 361, 363 (8th Cir. 1965), it will allow the parties an opportunity to make known any positions they have regarding such a transfer. Therefore, should any party wish to comment regarding the possible transfer of this action back to the United States District Court for the Central District of California, it is instructed to do so in a brief memorandum filed with the Court by December 20, 2005.

In addition, it seems to the Court that its Order denying Plaintiffs' Motion for Class

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<sup>1</sup>Among the considerations the Court views as counseling in favor of transfer are the following: 1) discovery in this matter is complete; 2) Plaintiffs' original choice of venue was California; 3) all but one of the related actions in this Court have been dismissed; and 4) Plaintiffs' Motion for Class Certification has been denied and three of the four individual plaintiffs are from California. In addition, the California court made clear that it "will accept transfer of the lawsuit back" should this Court determine "it is not in a better position than [the California court] to adjudicate" the matter. (Transfer Order at 10.)

Certification renders moot the pending Motion by defendant GenesisIntermedia for Preliminary Approval of the Partial Settlement (Doc. No. 354). Should any party wish to comment on this issue, it is instructed to do so in a brief memorandum filed with the Court by December 20, 2005.

Dated: December 5, 2005

s/Richard H. Kyle  
RICHARD H. KYLE  
United States District Judge